



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Wm. J. Tucker
Executive Director
Game, Fish and Oyster Commission
Walton State Building
Austin, Texas

Dear Sir:

Opinion No. 9-5593
Re: Clarification of House
Bill No. 67, 42nd Leg-
islature.

This department has received your request for an opinion. We quote the pertinent sections of your letter:

"House Bill 67, Second Called Session, Forty-second Legislature, found on Page 33 of the Acts of said Legislature, prohibits the use of seines and nets in the tidewaters of Kleberg and Kenedy Counties. Because of the question that has been asked this Department by the County Attorney of Kleberg County in connection with charges filed by officers of this Department for violation of said House Bill 67, Second Called Session, Forty-second Legislature, we should like to be advised as follows:

"1. Does House Bill 67, Second Called Session, Forty-second Legislature appear in the Penal Code of this State?

"2. Is said House Bill 67, Second Called Session, Forty-second Legislature in force at this time?

"3. Has House Bill 67, Second Called Session, Forty-second Legislature been duly certified by the Secretary of State?

"4. Does it appear that said House Bill 67, Second Called Session, Forty-second Legislature

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is a valid law under which prosecutions may be successfully sustained when adequate evidence is obtained that a seine or net has been used for the purpose of taking fish from the tidal waters of Kenedy or Kleberg Counties."

We answer your first question in the negative. Our Penal Code was re-codified in 1925. House Bill 67 is an independent Act and was not passed until 1931, therefore, its provisions could not appear in the Penal Code of 1925. The fact that said Act does not appear in Vernon's Annotated Penal Code, an unofficial publication, is of no importance.

House Bill 67, is found in Chapter 17, page 33 of the General and Special Laws for the 42nd Legislature, 2nd Called Session.

In answer to your second question, a diligent search reveals no subsequent statute which would operate to repeal this law.

The answer to your third question is, "yes." The laws passed by the 42nd Legislature, 2nd Called Session, were published under the authority of the State in the General and Special Laws of Texas and certified to be true and correct copies of the original bills on file in the Secretary of State's Office by Mrs. Jane Y. McCallum, Secretary of State, October 27, 1931.

In answer to your fourth question, we know of no reason why House Bill 67, 42nd Legislature, 2nd Called Session, is not a valid law under which prosecutions may successfully be sustained. The statute is not local or special within the meaning of Sections 56 and 57 of Article III of our State Constitution. Since it operates upon a subject in which the people at large are interested, it is a general law and the constitutional requirements of notice prior to passage of local and special laws is not applicable. *Stevenson, et al., vs. Woods, et al.*, 34 S. W. (2d) 246.

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In the event that you do not have access to the General and Special Laws of Texas for the 42nd Legislature, 2nd Called Session, we are herewith submitting a certified copy of House Bill 67, received and approved by the Governor, September 30, 1931.

Trusting that the foregoing fully answers your inquiries, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Fred C. Chandler*
Fred C. Chandler
Assistant

By *H. T. Bob Donahue*
H. T. Bob Donahue

APPROVED 29 11

Wm. J. Tucker

ATTORNEY GENERAL OF TEXAS

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Enclosure

